

CHAPTER NO. 429

HOUSE BILL NO. 1010

By Representatives Fowlkes, Coleman, Shaw

Substituted for: Senate Bill No. 1768

By Senator Person

AN ACT to amend Tennessee Code Annotated, Title 8; Title 10; Title 16; Title 18; Title 22; Title 26; Title 30; Title 36; Title 38; Title 39; Title 40; Title 50; Title 55; Title 67 and Title 68, relative to the collection and administration of court costs, taxes, fines and fees relative to the administration and operation of courts in the state of Tennessee.

WHEREAS, Chapter 756 of the Public Acts of 2004 created a study committee of the Tennessee Judicial Council to examine court costs and fees in all Tennessee Courts and make recommendations to the full judicial council regarding uniformity, simplification and appropriateness of fees; and

WHEREAS, said study committee having completed its study and having presented its recommendations to the Tennessee Judicial Council on November 18, 2004, the Judicial Council did adopt such recommendations with amendments and vote to present the proposal to the General Assembly; and

WHEREAS, said proposal should substantially simplify the administration of court costs and fees while providing for greater uniformity and fairness of costs; now, therefore:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Sections 8-21-402, 10-7-111, 10-7-117, 18-5-106, 30-2-709, and 36-2-314, are amended by deleting the sections in their entirety.

SECTION 2. Tennessee Code Annotated, Section 16-22-109(c), is amended by deleting the reference to § 8-21-401(a)(6) and substituting § 8-21-401.

SECTION 3. Tennessee Code Annotated, Section 22-2-204, is amended by deleting subdivision (a)(3).

SECTION 4. Tennessee Code Annotated, Section 26-5-108, is amended by deleting subdivision (b)(2).

SECTION 5. Tennessee Code Annotated, Section 30-2-306(b), is amended by deleting the subdivision in its entirety.

SECTION 6. Tennessee Code Annotated, Section 30-2-314(c), is amended by deleting the following language:

For these services the probate court clerk shall receive three dollars (\$3.00) for each notice given.

SECTION 7. Tennessee Code Annotated, Section 36-5-3009, is amended by deleting subsection (a) and by re-numbering subsequent sections accordingly.

SECTION 8. Tennessee Code Annotated, Section 36-5-3009, is further amended by deleting subsection (d) and substituting instead the following:

(d) The clerk will file any request for transfer and carry out the requirements of this part, even without receiving the appropriate fee for such request. If not paid, such sum shall be added to the cost bill to be assessed by the transferee court.

SECTION 9. Tennessee Code Annotated, Section 36-5-3111, is amended by deleting subsection (a) and by re-numbering subsequent sections accordingly.

SECTION 10. Tennessee Code Annotated, Section 36-5-3111, is further amended by deleting subsection (d) and substituting instead the following:

(d) The clerk will file any request for registration and carry out the requirements of this part, even without receiving the appropriate fee for such request. If not paid, such sum shall be added to the cost bill to be assessed by the registering court.

SECTION 11. Tennessee Code Annotated, Section 40-11-215, is amended in subsection (a) by deleting the language:

“, and a redemption fee of two dollars and fifty cents (\$2.50)”;

and further amended in subsection (c) by deleting the language:

“ less the two dollars and fifty cents (\$2.50) redemption fee, which shall be retained by the clerk as fees for issuing the redemption certificate”;

and further amended in subsection (d) by deleting the language:

“, and the redemption fee of two dollars and fifty cents (\$2.50)”.

SECTION 12. Tennessee Code Annotated, Section 40-32-101, is amended by deleting the language “provided, that such cost for destruction shall not exceed twenty-five dollars (\$25.00)” from subdivision (a)(1) and by deleting the language “; provided such fee shall not exceed twenty-five dollars (\$25.00)” from subdivision (a)(6)(C).

SECTION 13. Tennessee Code Annotated, Section 50-6-244, is amended by deleting subdivisions (c)(2) and (c)(3) in their entirety.

SECTION 14. Tennessee Code Annotated, Section 67-5-2403, is amended by deleting subsection (b) and (c) in their entirety.

SECTION 15. Tennessee Code Annotated, Section 67-5-2410, is amended by deleting subdivision (c)(1) in its entirety and substituting instead the following:

(c)

(1) The sheriff shall receive as costs to be taxed against each delinquent, seven dollars and fifty cents (\$7.50) for serving all original processes and the statutory fees for all other services performed by the sheriff, and the clerks of the courts shall receive the statutory fees provided in § 8-21-401.

SECTION 16. Tennessee Code Annotated, Section 68-3-402, is amended by deleting subsection (c) in its entirety.

SECTION 17. Tennessee Code Annotated, Section 8-21-401, is amended by deleting the section in its entirety and substituting instead the following:

§ 8-21-401

(a) Except as provided otherwise by law, the costs provided in this statute in civil cases are chargeable and may be collected at the time the services are requested from the clerk or other officer of the court; however, nothing in this statute should be construed to limit the ability of a party to initiate a judicial proceeding by filing a pauper's oath. In cases where payment of the clerk's fees would create a substantial hardship for a party, judges are encouraged to use the discretion provided in Rule 29 of the Tennessee Rules of the Supreme Court to find that the party is indigent even if that person does not meet the Legal Services Corporation's poverty guidelines. If a party, other than a party who initiated a proceeding under a pauper's oath, pays costs at the time the services are requested, such payment shall be deemed to satisfy the requirement for security to be given for costs pursuant to § 20-12-120. In proceedings covered by subdivision (b)(1)(A), below, and in workers compensation complaints, the attorney filing the action shall have the option to sign a cost bond in lieu of the party paying the clerk's fees at the time services are requested. These requirements for fees to be paid or security provided when services are requested from the clerk do not apply in criminal cases. The fees listed below do not include officer's fees as provided for in § 8-21-901 and elsewhere. These fees also do not include state and local litigation taxes.

(b) Fees in Civil Cases in Circuit and Chancery Court

(1)

(A) Unless otherwise provided below, court clerks in civil cases in courts of records shall charge a standard court cost of two hundred and twenty-five dollars (\$225) at the institution of a case. The types of cases covered by this fee would include, but not be limited to, actions for enforcement of contracts or breach of contract actions; injunctions; all torts, personal injury and property damage cases including malpractice and wrongful death suits; employment discrimination suits; civil rights suits; tax disputes; special remedies; other property disputes and any other type of actions not otherwise designated in this statute or elsewhere by law.

(B) In divorce cases involving minor children, the clerk shall charge a standard court cost of two hundred dollars (\$200) at the institution of a case. In divorce cases that do not involve minor children, the clerk shall charge a standard court cost of one hundred twenty-five dollars (\$125) at the institution of a case.

(C) In the following specific types of civil actions, the clerk shall charge a standard court cost of one hundred and fifty dollars (\$150) at the institution of a case:

(i) Appeals to the circuit or chancery court from juvenile court, general sessions court, probate courts, municipal courts or an administrative hearing; writs of certiorari from lower courts or administrative hearings;

(ii) Transfers of cases from foreign counties;

(iii) Requests for writ of mandamus;

(iv) Worker's compensation actions;

(v) Condemnations/inverse condemnations; and

(vi) Quo warranto proceedings.

(D) In the following specific types of civil actions, the clerk shall charge a standard court cost of one hundred dollars (\$100) at the institution of a case: adoptions, legitimations, paternity cases, restoration of citizenship, termination of parental rights, other domestic relations matters not otherwise designated, name changes, minor settlements, enforcement of foreign judgments, civil expungements where authorized by law, and orders of protection.

(E) In the following specific actions, the clerk shall charge a standard court cost of seventy-five dollars (\$75.00): child support enforcement and modification, including interstate support cases and civil contempt actions, and requests for modification of a parenting plan.

(F) In delinquent property tax cases, the clerk shall assess a filing fee of forty-two dollars (\$42.00) per parcel. For each parcel of property for which the judge issues an order to sell, there shall be a fee of one hundred dollars (\$100) for clerk's services related to that action.

(2)

(A) For the purposes of determining the fees of the clerk of court, when any third party complaint in a civil case is filed, the party filing the complaint shall be charged the same fee as was charged at the initiation of the original civil proceeding.

(B) The fee for cross-filings and counter complaints in civil cases in courts of record shall be one hundred dollars (\$100).

(c) The clerks of the various courts administering estates, guardianships, conservatorships, and other probate matters are entitled to demand and shall receive for their services the following fees:

(1) For opening and closing an estate, other than a small estate - \$225.

(A) For filing and docketing claims, giving notice and filing release on each claim for a decedent's estate, to be paid by claimant - \$11.00.

(B) For filing exceptions to claims against estates, mailing notices and entering order - \$42.00.

(2) For filing small estate affidavits - \$36.00.

(3) For filing a request for letters of guardianship and conservatorship; issuing all initial process and cost bond; entering order and issuing certificate of guardianships and conservatorship (not including fee of the sheriff); and including final accounting and order closing (regardless of court where files) - \$160.

(4) For filing a new request for removal of disabilities of minority, and incompetence, filing affidavits and entering orders; for filing a new request to legitimate a person, change a name or correct a birth certificate and enter orders; for filing a new request for habeas corpus, filing cost bond, issuing process and enter orders (not including fee of the sheriff) - \$100.

(5) For filing requests under the Mental Health Law, compiled in title 33, issuing notices, entering return, and entering judgments after hearing (not including fee of the sheriff) - \$50.00.

(6) For filing and docketing any request, on an existing case other than a request to close the case, not otherwise provided for - \$18.00.

(7) For entering any order, on an existing case other than closing order, not otherwise provided for - \$12.00.

(8) For issuing summons, subpoenas, citations, writs and notices, including copies of process when required by law, other than initial process - \$6.00.

(9) For filing any document not otherwise provided for in probate court - \$7.00.

(10) For filing, reviewing, recording annual or interim settlement or accounting and entering order approving settlement only - \$40.00.

(d) Fees in Criminal Cases in Courts of Record.

(1)

(A) Unless otherwise provided below, court clerks in criminal cases in courts of records shall charge a standard court cost of three hundred dollars (\$300). This fee would apply per case per defendant.

(B) The clerk would charge a fee of one hundred dollars (\$100) for proceedings related to a violation of probation, any post judgment actions or expungements.

(C) The clerk shall charge a fee of seventy-five dollars (\$75.00) for criminal contempt actions (including criminal contempt proceedings in civil courts), for failure to appear, requests for bonding company release from final forfeiture, requests to reinstate a driver license and requests for relief.

(D) Reimbursement from the state would be limited to the fees as currently allowed by law.

(e) Fees for Proceedings in Juvenile Court.

(1)

(A) Unless otherwise provided below, court clerks in juvenile proceedings shall charge a standard court cost of one hundred dollars (\$100). This fee shall apply to all juvenile proceedings not otherwise designated including, but not limited to requests to establish support/nonsupport; proceedings related to parentage; paternity cases; and legitimations.

(B) For requests for modification of child support the clerk shall charge a fee of seventy-five dollars (\$75.00).

(C) In the following actions, the clerk of the juvenile court shall charge a fee of forty-two dollars (\$42.00): juvenile traffic cases, consent orders, diversion and nonjudicial disposition of juvenile cases, voluntary motions to grant custody, marriage waivers, attachment pro corpus, bench warrants.

(D) In the following actions, the clerk of the juvenile court shall charge a fee of twenty-five dollars (\$25.00): restricted licenses, drug screenings, entering order of appeal and taking appeal bond, entering judgment from appellate court, entering order allowing rehearing, and special pleas.

(E) In the following actions, the clerk of the juvenile court shall charge a fee of sixty-two dollars (\$62.00): delinquency and unruly cases and felony and misdemeanor cases in juvenile court.

(f) Civil Actions in General Sessions Court

(1) General Sessions Civil Filing Fee - \$62.00

Unless otherwise provided elsewhere in this statute, court clerks in civil cases in general sessions court shall charge a standard filing fee of forty-two dollars (\$42.00). This fee is intended to cover all initial court clerk's costs for initiating a civil proceeding in general sessions court including, but not limited to, hearings regarding short term mental health commitments, appeals of decisions denying the issuance of handgun permits, and requests not otherwise provided for. This fee would not apply to orders of protection which would have the same fee (when costs are adjudged) as in courts of record of one hundred dollars (\$100).

(2) When a general sessions court is exercising concurrent civil jurisdiction with a court of record, the clerk shall charge the litigation taxes and court costs applicable in courts of record.

(g) Criminal Actions in General Sessions Court.

(1)

(A) General Session Criminal Base Fee - \$62.00. This fee would be charged per conviction per defendant. For cases involving traffic citations, instead of sixty-two dollars (\$62.00) the base court cost shall be forty-two dollars (\$42.00).

(B) Failure to Appear - \$40.00. In cases where the defendant fails to appear or pay fines or costs and the court issues an attachment, bench warrant, capias or other process to compel the defendant's attendance at the court, the defendant would be charged an additional fee for clerk's costs of forty dollars (\$40.00).

(C) Calling in Surety - \$40.00. The clerk shall charge the defendant this fee each time a scire facias or other proceeding is instituted to bring in a surety or make action against a bond in criminal cases for failure to appear.

(D) The clerk shall charge a fee of seventy-five dollars (\$75.00) for requests for bonding company release from final forfeiture or requests to reinstate a driver license.

(E) The clerk would charge a fee of one hundred dollars (\$100) for expungements.

(h) Clerk's Commissions

(1) Except as provided in subdivisions (2) and (3), for receiving and paying over all taxes, fines, forfeitures, fees and amercements, the clerk of the court is entitled to a five percent (5%) commission.

(2) In counties having a population of more than seven hundred thousand (700,000), according to the 1990 federal census or any subsequent federal census, the commission for receiving and paying over all taxes, fines, forfeitures, fees and amercements, shall be ten percent (10%) except as provided in subdivision (3).

(3) For receiving and paying over all privilege taxes on litigation, the clerk of the court is entitled to a six and seventy-five hundredths percent (6.75%) commission. The total amount of commissions receivable by the clerk of the court during any fiscal year shall not be less than the amount received by such clerk during the fiscal year ending June 30, 2005; provided, that if the statewide amount of litigation tax collected during such fiscal year is less than the amount collected during the fiscal year ending June 30, 2005, then the total amount of commissions receivable by the clerk of the court for that fiscal year shall be reduced by a percentage equal to the percentage reduction in statewide litigation tax collections for that fiscal year.

(i) Other Fees of Court Clerks. The following fees apply uniformly in all courts (general sessions, juvenile, probate, circuit or chancery) and may be charged in addition to the fees for cases listed above.

(1) Standard Post Judgment Fee. Unless otherwise provided, court clerks in criminal and civil cases in all courts shall charge a standard post judgment fee of twenty-five dollars (\$25.00). This fee is charged per occurrence and would be charged regardless of whether judgment is enforced by garnishment, execution, levy or other process. This fee would also apply to postjudgment interrogatories, publications, motions to set installment payments and orders and pleas.

(2) For issuing a subpoena or subpoena duces tecum, the fee shall be six dollars (\$6.00).

(3) In all cases in all courts, the clerk shall charge a fee of five dollars (\$5.00) for each requested continuance. In addition to this fee, the clerk shall also collect a courtroom security enhancement fee of two dollars (\$2.00). The revenues from this two dollar (\$2.00) fee shall be deposited into the county general fund. All revenue from this fee shall be used exclusively for the purposes of providing security and enhancing the security of court facilities in the county. For each fiscal year, the court security committee created by § 16-2-505(d)(2) shall develop and submit recommendations to the county legislative body regarding how such funds shall be utilized. The fees for continuances shall be taxed at the judge's discretion and collected at the conclusion of the case. If multiple litigants request a continuance, the judge, in his or her discretion, may assess these fees to one or more parties.

(4) For making copies as requested other than for an original filing and other than when preparing a record upon appeal (per page), the fee shall be fifty cents (50¢).

(5) For making certification and seal, providing a copy of an abstract or providing driver license certification, the fee shall be five dollars (\$5.00).

(6) For receiving funds paid into court on confirmation of private sales and/or other funds paid into the clerk pursuant to court order, and collecting and paying out the proceeds, the fee shall be forty dollars (\$40.00). This fee also applies where there is a pre-judgment judicial attachment or similar process to bring property into the court's possession prior to judgment.

(7) For selling real or personal property under decree of court and receiving, collecting, and paying out the proceeds, a commission not to exceed ten percent (10%) on the amount of sales up to six thousand dollars (\$6,000), and an additional amount to be fixed within such limits, in the discretion of the court. (The clerk shall collect the sheriff's fee, plus the sheriff's fee for each additional defendant in proceeding to sell real estate.)

(8) The clerks of the various courts have the authority to invest idle funds held under their control, not otherwise invested. Such investments shall be in banks or savings and loan associations operating under the laws of the state or under the laws of the United States; provided, that such deposits are insured under the federal deposit insurance corporation or the federal savings and loan insurance corporation. Such investments shall not exceed the amounts that are federally insured unless otherwise fully collateralized under a written collateral agreement or unless the funds are deposited with an institution that is a member of the state collateral pool. The interest on such investments shall become part of the fees of the court clerk and the clerk shall be required to account for interest received the same as with other fees received. Any funds authorized to be invested may be invested by the clerk in the local government investment pool administered by the state treasurer.

(9) Nothing in this section shall be construed to relieve the clerks of courts from the responsibility of investing funds held under their control pursuant to court order or under the rules of court. The interest on those investments shall accrue to the benefit of those directed by the court or by agreement of the parties to the litigation.

(10) For investing funds, the clerk shall receive a fee of five percent (5%) of the earnings of such investment.

(11) For preparing a record on appeal from a court of record to an appellate court, the fee shall be three-hundred (\$300).

(12) Whenever the clerk is required by law or by a judge to send documents by certified or registered mail, the clerk is entitled to recover his or her actual costs for mailing the documents.

(j) Earmarked Funds for Computerization. Out of all the general filing fees charged by court clerks, two dollars (\$2.00) of the amount collected shall be earmarked for computer hardware purchases or replacement, but may be used for other usual and necessary computer related expenses at the discretion of the clerk. Such amount shall be preserved for these purposes and shall not revert to the general fund at the end of a budget year if unexpended.

(k) Costs in Extraordinary Cases. In any extraordinary cases, the clerk may petition the judge to award reasonable costs in excess of the amounts provided in this section to reimburse the clerk for the additional services demanded by the case. In such cases, the clerk may also petition the judge to require an appropriate cost bond. For the purposes of this statute, an extraordinary case is defined as one in which there are ten or more plaintiffs or ten or more defendants.

(l) Charges to the State Unchanged. Notwithstanding any provision of this section to the contrary, any fees increased by this section which are assessed against the state or which otherwise represent a cost to the state in criminal cases, child support actions, mental health proceedings, actions under the Adult Protective Services Act, actions with regard to child care licensing, and collection efforts brought by the Department of Human Services shall be limited to the amounts chargeable prior to the effective date of these changes.

(m) Indigent parties. No clerk shall be permitted to collect any fee authorized by this section who does not permit any person the opportunity to institute a cause of action by means of a pauper's oath in accordance with Rule 29 of the Rules of the Tennessee Supreme Court.

(n) The fees provided for in this section shall not apply to circuit court clerks, criminal court clerks, clerks and masters of chancery courts, clerks of courts of general sessions, county clerks, clerks of juvenile and probate courts, and clerks of law and equity courts in counties with a charter form of government that has a population of not less than three hundred and fifty thousand (350,000) nor more than four hundred and fifty thousand (450,000) according to the 2000 federal census of population or any subsequent federal census. In those counties, the clerks shall instead charge the fees provided for in 8-21-409. For the purpose of administering court costs and clerk's fees in counties affected by this subsection, any statutory reference to 8-21-401 shall be deemed to be a reference to 8-21-409.

SECTION 18. The following provisions are enacted as a new section in Title 8, Chapter 21, Part 4:

8-21-409

(a) Circuit court clerks, criminal court clerks, clerks and masters of chancery courts, clerks of courts of general sessions, clerks of trial justice courts, county clerks, clerks of juvenile and probate courts, and clerks of law and equity courts in counties with a charter form of government that has a population of not less than three hundred and fifty thousand (350,000) nor more than four hundred and fifty thousand (450,000) according to the 2000 federal census of population or any subsequent federal census, are authorized to demand and receive for their services, where appropriate, the following fees for services indicated:

(1) ISSUING PROCESS

(A) For issuing summons for each defendant, order of publication, attachment for property or witness, replevin, injunction, refunding bonds in equity cases, any notice required by law, fieri facias, scire facias, venditioni exponas, writ of possession, distringas, capias, writ of error, writ of certiorari, writ of supersedeas, or any other writ, ancillary attachments, distress warrants, and criminal summons \$5.00

(B) For issuing subpoena to bring in paper or record, etc., and for issuing subpoena for each witness 2.00

(C) For issuing state's warrant with affidavit..... 4.00

(D) For issuing forcible entry and detainer warrant, or any other civil warrant in general sessions courts, or trial justice courts 3.00

(E) For each additional name on any state or civil warrant 1.00

(F) For summons to answer in city's or county's suit for taxes for each defendant 3.00

(G) For issuing order to sheriff to summon jurors or commissioners to divide land 3.00

(H) For preparation and issuance of garnishment to officer 2.00

(I) For each copy of the above processes when required by law 1.50

(J) For each recognizance, bond or mittimus 2.00

(2) FILING INSTRUMENTS

For filing each bond, bill, complaint, motion or other pleading, document, exhibit, or article, affidavit, record or paper, presentment or indictment, criminal warrant pending action from grand jury 2.00

(3) TAKING ACKNOWLEDGMENT ON LEGAL INSTRUMENTS

(A) For qualifying each surety on a bond or for taking an affidavit 2.00

(B) For affixing the seal on any legal instrument 2.00

(C) For taking a deposition 5.00

(D) For empaneling a jury 2.00

(E) For examining a party in interrogatories 5.00

(4) RULE ENTRIES

(A) For each order, bond, bill, complaint, motion or other pleading, document, exhibit, or article, affidavit, record or paper, presentment or indictment, criminal warrant, criminal summons, pending action from grand jury and return of process entered upon the rule, trial, or execution docket 2.00

(B) For making and entering on execution docket each bill of costs 3.00

(C) For entering each judgment 3.00

(D) For entering judgment against state or county, where defendant is shown by execution to be insolvent..... 3.00

(E) For entering order of appeal to any appellate court.....3.00

(F) For each probate of a witness 1.50

(G) For furnishing each bill of costs 2.00

(5) MINUTE ENTRIES AND COPIES OF LEGAL INSTRUMENTS

(A) For entering minutes or a transcript of record, or copies of any pleadings, papers, and proceedings in a cause, per one hundred (100) words (four (4) figures are to be counted as a word)..... 1.00

(B) Copy of indictment or presentment for a defendant in jail, copy of indictment in minute book, copy of indictment to warden of penitentiary. 2.00

(C) Certified copy of sentence furnished to warden of penitentiary and certified copies and statements of sentence to workhouse for superintendent thereof and for county executive..... 3.50

(D) For transcript of judgment and bill of costs for comptroller or treasurer 2.50

(E) For every certificate not included in some other service 2.00

(F) Copy of commitment or acquittal to judicial cost accountant 2.50

(G) Furnishing appointed attorneys, indigent defendants or petitioners with copies of documents at \$2.00 for the first page and \$1.00 for each additional page, not to exceed 10.00

(6) COMMISSIONS

(A) Except as provided in subdivision (B), for receiving and paying over all taxes, fines, forfeitures, fees and amercements, the clerk of the court is entitled to a five percent (5%) commission.

(B) For receiving and paying over all privilege taxes on litigation, the clerk of the court is entitled to a six and seventy-five hundredths percent (6.75%) commission. The total amount of commissions receivable by the clerk of the court during any fiscal year shall not be less than the amount received by such clerk during the fiscal year ending June 30, 2005; provided, that if the statewide amount of litigation tax collected during such fiscal year is less than the amount collected during the fiscal year ending June 30, 2005, then the total amount of commissions receivable by the clerk of the court for that fiscal year shall be reduced by a percentage equal to the percentage reduction in statewide litigation tax collections for that fiscal year.

(C) For selling property under decree of court, and receiving, collecting and paying out the proceeds, a commission not to exceed five percent (5%) on the amount of sales up to six thousand dollars (\$6,000), and an additional amount to be fixed within such limits in the discretion of the court.

(D) On confirmation of private sales and receiving, collecting and paying out the proceeds, a commission of two percent (2%).

(E) Additional compensation allowable by court for accounts and settlements of administration and reports under reference.

(F) For receiving and paying out workers' compensation installment payments, five percent (5%) on the dollar.

(7) MISCELLANEOUS

(A) For drawing deed of conveyance under orders of the court, reciting all proper facts \$20.00

(B) For deciding upon exceptions to answers, for each exception 2.00

(C) For tax encumbrances report and services connected therewith 3.00

(D) For receiving and recording a bank's sworn statement of capital stock paid up, and its financial condition, for executing trusts..... 2.00

(E) For each certificate as to tax bill, required to be made to the county trustee in such case 1.00

(F) Workers' compensation settlements under § 50-6-304:

(i) For filing proceedings and entering any judgment thereon, minimum 20.00

(ii) For each certified copy of the final judgment..... 3.00

(G) For receiving and handling motor vehicle license and/or submitting abstracts on motor vehicle violations..... 2.00

(H) For preparing and mailing correspondence notifying defendants and attorneys of record of the setting of criminal and civil cases on the court docket 2.00

(I) For proceedings in adoption and legitimation cases, change of name, registration of citizenship cases, (plus any litigation tax, if applicable)..... 75.00

(J) For proceedings in uncontested divorces (plus any litigation tax and divorce referee fees, if applicable) 75.00

(K) For proceedings in expunging public records in the criminal, circuit, or general sessions courts, pursuant to § 40-35-313 or where an indictment, presentment or warrant was dismissed as a result of a diversion program according to §§ 40-15-102--40-15-105, inclusive 40.00

(L)

(i) In criminal cases in a court of record, the circuit or criminal clerk has the option to charge a flat fee in lieu of itemizing the fees as set forth in subsection (a); the clerk's fee in misdemeanor and felony cases shall be (plus any state and local litigation tax applicable) 250.00

(ii) In criminal cases in general sessions court, the clerk has the option to charge a flat fee in lieu of itemizing the fees as set forth in subsection (a); the clerk's fee for each conviction in criminal cases in general sessions court shall be 40.00

(M) In the following cases the clerk may, at the clerk's option, charge a flat fee instead of itemizing the fees set out in subsection (a):

(i) The clerk's fee in contempt cases shall be..... 35.00

(ii) The clerk's fee for cases involving child support enforcement shall be 35.00

(iii) The clerk's fee for cases involving default judgments shall be, for each case 75.00

(N) The clerk shall notify the office of the comptroller of the treasury and the county executive of the clerk's election to charge a flat fee in lieu of itemizing fees. The election to charge a flat fee shall apply to all cases set out in the previous item. Elections become effective on July 1, after notice, and shall remain effective indefinitely unless the clerk gives notice to the office of the comptroller of the treasury and to the county executive of a change in the election.

(O) For petitions for visitation of a minor child (including grandparent visitation) 75.00

(P) For petitions for custody or change of custody of minor child 75.00

(Q) For petitions to enter a foreign judgment 75.00

(R) For filing and docketing petitions and orders not otherwise provided 75.00

(S) For proceedings in claims for abandoned mineral interests cases pursuant to § 66-5-108 35.00

(T) In all cases where a fine is imposed, but is to be paid in installments, the clerk shall charge a fee for services in administering a deferred payment plan in accordance with § 40-24-101, in the amount of five percent (5%) of the total, not to exceed fifteen dollars (\$15.00).

(b) The clerks of the various courts of the state administering estates, guardianships, conservatorships and other probate matters are entitled to demand and shall receive for their services the following fees:

(1) For filing petition, entering order, recording bond and issuing original letters of administration in intestacy cases..... \$60.00

(2) For filing petition to probate will and entering order, without issuing letters testamentary
48.00

(3) For filing petition to probate will of three (3) pages or less in length, entering order, issuing original letters testamentary when bond is waived, recording will 66.00

(4) For filing petition to probate will of more than three (3) pages in length, entering order, issuing original letters testamentary when bond is waived, recording will 66.00

Plus for each additional page of will in excess of three (3) pages 1.00

(5) For filing petition to probate will of three (3) pages or less in length, entering order, issuing original letters testamentary or original letters of administration c.t.a., recording bond 72.00

(6) For filing petition to probate will of more than three (3) pages in length, entering order, issuing original letters testamentary or original letters of administration c.t.a., recording bond
72.00

Plus for each additional page of will in excess of three (3) pages1.00

(7) For forwarding by mail the notice to the commissioner required by § 67-8-406(a) 6.00

(8) For giving notice to creditors of the qualification of a personal representative as required by § 30-2-306(a) 4.00

(9) For each notice of claim against estate given as required by § 30-2-314 4.00

(10) For filing petition for letters of guardianship, issuing process and cost bond, entering order, and issuing original certificate of guardianship (not including fee of the sheriff) 60.00

(11) For filing petition for removal of disabilities of minority, and entering order 30.00

(12) For filing petition for removal of disabilities of insanity, filing affidavits and entering order
30.00

(13) For filing petition for allowing year's support to spouses and entering all orders and reports
30.00

(14) For filing petition to legitimate person, entering order, issuing certificates to be forwarded to the Tennessee office of vital records, maximum..... 60.00

(15) For filing petition for change of name, and entering order, maximum 60.00

(16) For filing inventory and recording same in inventory record book 10.00

(17) For entering each order not otherwise provided for 12.00

(18) For filing petition for habeas corpus, filing cost bond, issuing process, and entering order (not including fee of the sheriff)..... 60.00

(19) For filing and recording annual settlement of guardians, conservators, administrators and executors and entering order approving settlement only..... 30.00

Plus for each additional page in excess of three (3) pages..... 1.00

(20) For filing and recording final settlement of guardians, conservators, administrators and executors and entering order approving settlement only..... 36.00

Plus for each additional page in excess of three (3) pages..... 1.00

(21) For filing petition under the Mental Health Law, compiled in title 33, issuing notices of hearing, entering returns, and entering judgments after hearing (not including fees of sheriff)
50.00

(22) For entering order increasing bonds of guardians, conservators, executors and administrators and recording bond 22.00

(23) For issuing each additional copy of letters of administration, testamentary, guardianships and conservatorships 6.00

(24) For each certificate issued, except under acts of congress 4.00

(25) For each certificate issued under acts of congress 6.00

(26) For issuing supplemental certificate showing letters to be in force 6.00

(27) For making certified copies of documents, per page 2.00

Plus for certificate 2.00

(28) For making photocopies of documents, per page 1.00

(29) For filing exceptions to claims against estates, mailing notices and entering orders 42.00

(30) For filing petition for delayed or corrected birth certificate, and entering order 36.00

(31) For filing and docketing claims against decedent's estate, each claim 5.00

For filing release of each claim 2.00

(32) For filing and docketing petition and order not otherwise provided for 30.00

(33) For issuing summons, subpoenas, citations, writs and notices, including copies of process when required by law 11.00

(34) For filing small estate affidavits (includes certifying to one (1) copy) 30.00

Each additional copy 2.00

(35) For filing petition and cost bond in causes involving sale of real estate 18.00

(36) For filing each answer in such causes 7.00

(37) For filing each report in such causes 7.00

(38) For issuing summons and return in such causes (includes copy of process) 11.00

(39) For entering orders pro confesso in such causes 7.00

(40) For issuing and entering order of publication in such causes 7.00

(41) For filing each amended petition in such causes 10.00

(42) For entering order appointing guardian ad litem in such causes 12.00

(43) For entering final order in each of such causes 12.00

(44) Commissions on funds paid into court on confirmation of private sales and/or other funds paid into the clerk pursuant to court order, and receiving, collecting and paying out the proceeds, a maximum commission of two percent (2%).

(45) For selling property under decree of court and receiving, collecting, and paying out the proceeds, a commission not to exceed five percent (5%) on the amount of sales up to six thousand dollars (\$6,000), and an additional amount to be fixed within such limits, in the discretion of the court.

(c) Indigent parties. No clerk shall be permitted to collect any fee authorized by this section who does not permit any person the opportunity to institute a cause of action by means of a pauper's oath in accordance with Rule 29 of the Rules of the Tennessee Supreme Court.

(d) In each new case filed, the clerk may, at the clerk's option, charge an additional fee for data entry, such fee shall be \$ 2.00.

(e) Fee for entering each continuance..... 5.00.

(f) Investments

(1) The clerks of the various courts have the authority to invest idle funds held under their control, not otherwise invested. Such investments shall be in banks or savings and loan associations operating under the laws of the state or under the laws of the United States; provided, that such deposits are insured under the federal deposit insurance corporation or the federal savings and loan insurance corporation. Such investments shall not exceed the amounts that are federally insured unless otherwise fully collateralized under a written collateral agreement or unless the funds are deposited with an institution that is a member of the state collateral pool. The interest on such investments shall become part of the fees of the court clerk and the clerk shall be required to account for interest received the same as with other fees received. Any funds authorized to be invested may be invested by the clerk in the local government investment pool administered by the state treasurer.

(2) Nothing in this section shall be construed to relieve the clerks of courts from the responsibility of investing funds held under their control pursuant to court order or under the rules of court. The interest on those investments shall accrue to the benefit of those directed by the court or by agreement of the parties to the litigation.

(3) For investing funds, the clerk shall receive a fee of five percent (5%) of the earnings of such investment.

(g)

(1) In delinquent property tax cases, the clerks of the courts shall receive a fee for basic services, to be specified by order of the courts, against each delinquent upon the filing of the complaint. Additionally, the clerk shall receive for other services the statutory fees allowed the clerks under existing laws.

(2) For annually providing to the county trustee the list of delinquent taxpayers mandated by 67-5-2403, the clerk shall receive a fee of five dollars (\$5.00) for each property listed for each year which shall be added to all the fees and costs in such suits.

SECTION 19. Tennessee Code Annotated, Section 16-15-5007, is amended by deleting the following language:

In order to defray the additional expenses the administrative director of the courts will incur in adequately serving the general sessions judges, there is levied a litigation tax of one dollar (\$1.00) on each civil case filed in general sessions court, or in a court where the general sessions judge serves as judge. The litigation tax imposed by this section does not apply to cases in juvenile court. The revenue generated by such tax shall be transmitted to the state treasurer for deposit, and fifty percent (50%) of the proceeds shall be credited to the account of the administrative director of the courts to be used to defray the expenses of serving the general sessions courts and the Tennessee general sessions judges' conference. The remaining fifty percent (50%) of the proceeds shall be used to defray the cost of retirement pay of retired general sessions judges.

SECTION 20. Tennessee Code Annotated, Section 16-18-305(b), is amended by deleting the following language:

Notwithstanding the apportionment provisions of § 67-4-606, or any other law to the contrary, all revenue derived from such privilege tax shall be forwarded by the clerk to the state treasurer and shall be deposited into the civil legal representation of indigents fund authorized and created under § 16-3-808.

and substituting instead the following:

The revenue generated by the privilege tax levied by this subsection shall be apportioned in accordance with the provisions of § 67-4-606.

SECTION 21. Tennessee Code Annotated, Section 39-13-709, is amended by deleting subsection (c)(2) in its entirety and by substituting instead the following:

Ninety-five percent (95%) of the tax paid hereunder shall be deemed a litigation tax imposed pursuant to § 67-4-602 and shall be includible as an amount subject to apportionment pursuant to § 67-4-606.

SECTION 22. Tennessee Code Annotated, Section 40-24-107(a)(5), is amended by deleting the words "for deposit in the fund established by this section" and by substituting instead the words "for apportionment pursuant to the provisions of § 67-4-606".

SECTION 23. Tennessee Code Annotated, Section 40-24-107(b), is amended by deleting the words "deposited upon receipt to the criminal injuries compensation fund" and by substituting instead the words "apportioned pursuant to the provisions of § 67-4-606".

SECTION 24. Tennessee Code Annotated, Section 67-4-602, is amended by deleting the section in its entirety and substituting instead the following:

67-4-602. Tax Imposed

(a) There is levied a privilege tax on litigation of twenty-nine dollars and fifty cents (\$29.50) on all criminal charges, upon conviction or by order, instituted in this state.

(b) There is levied a privilege tax on litigation of twenty-three dollars and seventy-five cents (\$23.75) in all civil cases in this state in chancery court, circuit court, or general sessions court when exercising state court jurisdiction. When a general sessions court is exercising state court jurisdiction, except with regard to cases in juvenile court, there is levied an additional privilege tax of one dollar (\$1.00).

(c) There is levied a privilege tax on litigation of seventeen dollars and seventy-five cents (\$17.75) in all civil cases in this state in general sessions court when not exercising state court jurisdiction.

(d) In all civil cases in municipal courts in this state the clerk of the court shall collect a litigation tax in accordance with the provisions of § 16-18-305. When a municipal court is exercising general sessions jurisdiction, the clerk of the court shall collect a privilege tax on litigation in those cases that is the same as the tax collected by other general sessions courts in comparable cases.

(e)

(1) In addition to any other tax imposed by this chapter, there is levied a privilege tax on litigation of three dollars (\$3.00) on all criminal charges, upon conviction or by order, instituted in the general sessions court in any county having a population of not less than three hundred nineteen thousand six hundred twenty-five (319,625) nor more than three hundred nineteen thousand seven hundred twenty-five (319,725) according to the 1980 federal census or any subsequent federal census. Notwithstanding the apportionment provisions of § 67-4-606, each levy of this tax shall be paid into the office of the county clerk of such county with the proceeds to be credited to a separate reserve account in the county fund. The proceeds shall be disbursed to expand the use of the appropriate law enforcement officers for walking patrols within public housing subdivisions and in localities within such county that traditionally experience greater incidence of crime. The proceeds may also be used by the respective police department to fund police cadet programs conducted by such department in localities within such county that traditionally experience greater incidence of crime.

(2) Five percent (5%) of the proceeds collected under subdivision (e)(1) shall be retained by the office of the county clerk collecting the tax for the purpose of effectuating the provisions of this subsection (e).

(f)

(1) In addition to any other tax levied by this chapter, there is levied an additional privilege tax on litigation of one dollar (\$1.00) on all criminal charges, upon conviction or by order, instituted in any state or county court for any violation of title 55, chapter 8 or for a violation of any ordinance governing use of public parking space.

(2) Notwithstanding the provisions of this chapter or any private act or resolution of a county legislative body to the contrary, no litigation taxes shall apply to any charge prosecuted for an offense under § 55-8-188.

(g) The privilege taxes imposed by § 40-24-107 are deemed litigation taxes, collectible by the respective court clerks as otherwise provided in § 67-4-603 and subject to apportionment according to § 67-4-606; however, the designation of these taxes as litigation taxes shall not change the clerk's fee provided for in § 40-24-107 nor shall it alter the priority of collection or distribution of monies collected by the clerk in cases where these taxes are levied.

(h) The privilege tax imposed by § 39-13-709, after deduction for administrative costs under subsection (c)(1) thereof, is deemed a litigation tax, collectible by the respective court clerks as otherwise provided in § 67-4-603 and subject to apportionment according to § 67-4-606; however, the designation of these taxes as litigation taxes shall not change the clerk's fee provided for in § 39-13-709(c)(1) nor shall it alter the priority of collection or distribution of monies collected by the clerk in cases where these taxes are levied.

(i) Every person from whom the clerks of the various courts are required to collect the tax imposed by this section shall be liable for the tax imposed by this section.

SECTION 25. Tennessee Code Annotated, Section 67-4-603, is amended by adding the following as a new subsection:

(_) The clerks of the various courts shall collect and remit the various privilege taxes on litigation as well as the various fines, fees and court costs which are remitted to the state and shall report them on forms prescribed by the commissioner.

SECTION 26. Tennessee Code Annotated, Section 67-4-606, is amended by deleting the section in its entirety and substituting instead the following:

(a) The privilege tax collected under this part shall be paid into the state treasury and the proceeds shall be divided as follows:

(1) Three hundred twenty ten thousandths percent (0.0320%) of the proceeds shall be deposited in a fund established for the operation of the Tennessee corrections institute. This amount shall not revert to the state general fund and shall not be subject to impoundment or allotment reserve, but shall be managed on a revolving non-quarter basis;

(2) Four and four thousand four hundred thirty ten thousandths percent (4.4430%) of the proceeds shall be credited to a separate reserve account in the general fund to be used only by the departments of education and safety to promote and expand driver education through the public schools of this state and to promote safety on the highways, subject to the general law with respect to the allocation of funds by the commissioner of finance and administration as follows:

(A) Seventy-five percent (75%) of the amount provided for in this subdivision (a)(2) shall be allocated to the department of education to be used only for the purposes as set forth in this subdivision (2); and

(B) Twenty-five percent (25%) of the amount provided for in this subdivision (a)(2) shall be allocated to the department of safety to be used only for the purposes as set forth in this subdivision (2);

(3) Twenty-five and four thousand four hundred eighty-three ten thousandths percent (25.4483%) of the proceeds shall be allocated to the general fund;

(4) Four and eight thousand one hundred eighty-six ten thousandths percent (4.8186%) of the proceeds shall be held in the state treasury and disbursed and used only for the purpose of providing funds to aid in meeting the cost of benefits provided for county judges by title 8, chapters 34-37. This amount shall be used to secure actuarial soundness, and shall not be used to improve any retirement benefit, increase any actual contribution or for any purpose other than that stated in this section;

(5) Nine and four thousand eight hundred fifty-four ten thousandths percent (9.4854%) of the proceeds shall be held in the state treasury and disbursed and used only for the purpose of providing funds to aid in meeting the costs of benefits provided for county officials by title 8, chapters 34-37. This amount shall be used to secure actuarial soundness, and shall not be used to improve any retirement benefit, decrease any actual contribution or for any purpose other than that stated in this section;

(6) Six thousand five hundred fifty-three ten thousandths percent (0.6553%) of the proceeds shall be held in the state treasury and disbursed only upon request of the administrative director of the courts and used only for the purpose of funding the state court clerks' conference established in § 18-1-501. No state funds shall be obligated or expended pursuant to this section for the purpose of funding the state court clerk's conference unless such meeting is held in a state facility when practical. In the event it is not practical to hold such meeting in a state park, the reasons and cost therefore must be set forth in writing by the affected agency head and shall be forwarded to the commissioner of finance and administration;

(7) Eight thousand four hundred six ten thousandths percent (0.8406%) of the proceeds shall be allocated to the victims of crime assistance fund created pursuant to § 9-4-205;

(8) Fifteen and eight thousand four hundred seventy-one ten thousandths percent (15.8471%) of the proceeds shall be allocated to the criminal injuries compensation fund;

(9) One and three thousand seven hundred fifty-five ten thousandths percent (1.3755%) of the proceeds shall be allocated to the victims of drunk drivers compensation fund;

(10) Three and seven thousand six hundred fifty-three ten thousandths percent (3.7653%) of the proceeds shall be transferred to the state treasury and used entirely to fund the provisions of § 40-14-207;

(11) Five thousand five hundred twenty-nine ten thousandths percent (0.5529%) of the proceeds shall be credited to the account of the administrative director of the courts to be used to defray the expenses of serving the general sessions courts and the Tennessee general sessions judges' conference;

(12) Five thousand five hundred twenty-eight ten thousandths percent (0.5528%) of the proceeds shall be used to defray the cost of retirement pay of retired general sessions judges;

(13) Nineteen and two thousand nine hundred two ten thousandths percent (19.2902%) of the proceeds shall be transferred to the state treasurer who shall credit the same to the public defender program;

(14) Seven and four thousand seven hundred one ten thousandths percent (7.4701%) of the proceeds shall be credited to the civil legal representation of indigents fund authorized and created under §16-3-808;

(15) Two and three thousand fifty-six ten thousandths percent (2.3056%) of the proceeds shall be deposited in the state general fund and earmarked for grants to local governments for the purchase and maintenance of and line charges for electronic fingerprint imaging systems. These grants shall be awarded and administered by the office of criminal justice in the department of finance and administration. The general assembly may appropriate a portion of the earmarked funds derived from this subsection (a)(15) to the Tennessee bureau of investigation for the purchase, installation, maintenance, and line charges for electronic fingerprint imaging systems. Prior to the purchase of any electronic fingerprint imaging system, a law enforcement agency or local government shall obtain certification from the Tennessee bureau of investigation that such equipment is compatible with the Tennessee bureau of investigation's and the federal bureau of investigation's integrated automated fingerprint identification system;

(16) Three thousand four hundred twenty-six ten thousandths percent (0.3426%) of the proceeds shall be credited to the sex offender treatment fund created pursuant to § 39-13-709; and

(17) Two and seven thousand seven hundred forty-seven ten thousandths percent (2.7747%) of the proceeds shall be credited to a separate reserve account in the general fund to be used only by the department of education to promote and expand driver education through the public schools of this state.

(b) Notwithstanding any provision of this section to the contrary, the total amount allocated to a fund or program for any fiscal year pursuant to subsection (a), except the general fund, shall not be less than the amount allocated to such fund or program during the fiscal year ending June 30, 2005; provided, that if the statewide amount of litigation tax collected during such fiscal year is less than the amount collected during the fiscal year ending June 30, 2005, then the total amount allocated to a fund or program for that fiscal year shall be reduced by a percentage equal to the percentage reduction in statewide litigation tax collections for that fiscal year.

SECTION 27. Tennessee Code Annotated, Section 16-18-305, is amended by adding the following as a new, appropriately designated subsection:

() For receiving and paying over all privilege taxes on litigation, the clerk of a municipal court is entitled to a two percent (2%) commission.

SECTION 28. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 29. This act shall take effect January 1, 2006, the public welfare requiring it.

PASSED: May 27, 2005



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 17th day of June 2005



PHIL BREDESEN, GOVERNOR